IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.135 OF 2006
IN
TESTAMENTARY PETITION NO.742 OF 2005

Prem Makhija ....Petitioner
V/s.
Madhu Mansharamani & Ors. ....Respondents

Mr.Mohan Pangliya i/b Yogesh N. Adhia for the Petitioner.

Mr.Y.K. Sharma for Respondent No.2.

Mr.J.J. Thakker for Respondent No.3.

**CORAM : S.J. VAZIFDAR, J.**
**DATED : 13TH JULY, 2007.**

**P.C.** :

1. The Petitioner seeks an interim order to the effect that the consent terms dated 21.12.2005 entered into between the Petitioner and Respondent No.1 be recalled and set-aside. The Petitioner has also sought the appointment of a Court Receiver in respect of the flat.

2. This is a Petition for Letters of Administration with the Will of the Petitioner's father attached. Respondent Nos.1 and 2 are the Petitioner's sisters. Respondent No.3 is the

Petitioner’s brother.

3. The consent terms are only between the Petitioner and Respondent No.1. The consent terms cannot in any manner whatsoever either in this proceeding or any other proceedings or otherwise howsoever affect the rights of any persons including the Petitioner who are not parties to the consent terms. The consent terms by themselves do not create any rights in favour of the parties thereto qua any other party.

4. As far as prayer for Court Receiver is concerned, Respondent No.2 has filed Suit No.1361 of 2007. An application for injunction and appointment of a Court Receiver have been sought in the Notice of Motion taken out in that suit. An ad-interim order dated 7.8.2006 has also been passed therein. The Notice of Motion is yet to be heard.

5. In the circumstances, it is not necessary for me to consider the prayer for appointment of the Court Receiver in this proceeding.

6. The Notice is Motion is accordingly disposed of.